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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 SHAWN LEE GODWIN,

9 Plaintiff,

10 v.

11 STUART ANDREWS, M.D., *et al.*,

12 Defendants.

Case No. C18-431-RSM-JPD

ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTIONS

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14 This matter comes before the Court on plaintiff's motion for extension of time to
15 respond to defendants' motion for summary judgment, motion requesting discovery, and
16 motion for appointment of counsel. Dkts. 26-28. The Court, having reviewed plaintiff's
17 motions, defendants' opposition, and the balance of the record, hereby GRANTS plaintiff's
18 request for an extension of time in part, Dkt. 26, STRIKES plaintiff's motion requesting
19 discovery, Dkt. 27, because his discovery requests should be properly directed to the named
20 defendants, and DENIES his motion for appointment of counsel, Dkt. 28.

21 Specifically, defendants filed their motion for summary judgment in this case, Dkt. 21,
22 on August 9, 2018, several months before the October 12, 2018 discovery cutoff in this 42
23 U.S.C. § 1983 civil rights action. As a result, plaintiff requests a ninety-day extension of time
24 to respond to defendants' motion to allow him sufficient time to obtain documents, records,
25 and other evidence to support his claims from defendants. Dkt. 26. Indeed, it appears that no
26 discovery has been conducted in this case to date, and plaintiff should be afforded an

1 opportunity to support his claims. Accordingly, plaintiff's request for an extension of time is
2 GRANTED IN PART. Plaintiff shall have sixty (60) days from the date of this Order to
3 respond to defendants' motion for summary judgment. Plaintiff shall file his response by no
4 later than **Monday, November 19, 2018**, and defendants may file a reply by no later than
5 Friday, November 30, 2018. The Clerk is therefore directed to RE-NOTE defendants' motion
6 for summary judgment, Dkt. 21, for consideration on **Friday, November 30, 2018**.

7 Although plaintiff is correct that he is entitled to discovery in this action, his motion
8 requesting discovery of documents from defendant Stuart Andrews, M.D., Dkt. 27, is
9 STRICKEN. Plaintiff's motion is, in effect, a discovery request, and discovery requests are
10 not to be filed with the Court. *See* Fed. R. Civ. P. 5(d)(1). Plaintiff must direct his request to
11 the party or entity from whom he wishes to obtain the requested materials in accordance with
12 the Federal Rules of Civil Procedure. *See* Fed. R. Civ. P. 26-36, 45.

14 Finally, plaintiff's motion for appointment of counsel, Dkt. 28, is DENIED. No
15 constitutional right to counsel exists for an indigent plaintiff in a civil case unless the plaintiff
16 may lose his physical liberty if he loses the litigation. *See Lassiter v. Dep't of Social Services*,
17 452 U.S. 18, 25 (1981). However, pursuant to 28 U.S.C. § 1915(e)(1), this Court has the
18 discretion to appoint counsel for indigent litigants proceeding *in forma pauperis*. *United States*
19 *v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995). The Court may appoint
20 counsel only on a showing of "exceptional circumstances." *Id.*; *Wilborn v. Escalderon*, 789
21 F.2d 1328, 1331 (9th Cir. 1986). "A finding of exceptional circumstances requires an
22 evaluation of both the likelihood of success on the merits and the ability of the plaintiff to
23 articulate his claims *pro se* in light of the complexity of the legal issues involved." *Wilborn*,
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1 789 F.2d at 1331. These factors must be viewed together before reaching a decision on a
2 request for counsel under § 1915(e)(1). *Id.*

3 Here, the Court finds that plaintiff has failed to demonstrate that exceptional
4 circumstances warrant the appointment of counsel at this time. To date, plaintiff has yet to
5 offer evidence to suggest that this case is likely to succeed on the merits. In addition, it is not
6 clear that plaintiff is unable to articulate the legal and factual bases of his claims. Accordingly,
7 the Court concludes that appointment of counsel is not appropriate at this time. Plaintiff will
8 be free to move for appointment of counsel, if necessary, at a later date.
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10 The Clerk of the Court is directed to send a copy of this Order to plaintiff and the
11 Honorable Ricardo S. Martinez.

12 DATED this 20th day of September, 2018.

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15 JAMES P. DONOHUE
16 United States Magistrate Judge
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